

**DEPARTMENT OF HUMAN SERVICES BUDGETARY****PROCEDURES AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill modifies provisions relating to the funding of Department of Human Services programs.

**Highlighted Provisions:**

This bill:

- ▶ allows the executive director of the Department of Human Services to:
  - designate up to three priority programs within the department to receive funds from other department programs that the department determines have unexpended funds from the fiscal year in which the funds were appropriated; and
  - reallocate those unexpended funds to one or more of the designated priority programs;
- ▶ prohibits the department from allocating unexpended funds for personnel costs, with an exception; and
- ▶ requires the department to provide an annual report on the department's designation of priority programs to receive unexpended funds and on the department's use of reallocated unexpended funds.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-1-111**, as last amended by Laws of Utah 2020, Chapter 303

**63J-1-206**, as last amended by Laws of Utah 2020, Chapters 152, 231, 402 and last

amended by Coordination Clause, Laws of Utah 2020, Chapter 231

ENACTS:

**62A-1-111.6**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **62A-1-111** is amended to read:

**62A-1-111. Department authority.**

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested

under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the department is given custody of a minor by the juvenile court under Section 78A-6-117 or ordered to prepare an attainment plan for a minor found not competent to proceed under Section 78A-6-1301; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to the department by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and

persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within appropriations authorized by the Legislature, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions; ~~and~~

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department~~[-];~~ and

(24) reallocate unexpended funds as provided in Section 62A-1-111.6.

Section 2. Section **62A-1-111.6** is enacted to read:

**62A-1-111.6. Powers and duties of the department to adjust program allocations**

**-- Use of remaining funds at the end of a fiscal year -- Reporting.**

(1) (a) Beginning fiscal year 2022, the department may:

(i) designate up to three existing programs, as defined in Section 63J-1-102, within the department as priority programs to receive unrestricted General Fund money that is reallocated under Subsection (1)(a)(ii); and

(ii) reallocate unexpended, unrestricted General Fund money from a program in one line item within the department to one or more of the designated priority programs in another line item within the department.

(b) The department shall make any reallocation of unexpended money under Subsection (1)(a) before the end of the fiscal year in which the money was appropriated.

(c) The department may not make a reallocation under this section if the reallocation:

(i) results in the creation of a new program, benefit, or service;

(ii) results in a significant expansion of:

(A) a program; or

(B) the scope or type of benefit or service already provided; or

(iii) provides funding for a budget request that the Legislature previously declined.

(2) On or before December 1 of each year, the department shall report to the Social Services Appropriations Subcommittee:

(a) on the department's designation of priority programs to receive the unexpended money under Subsection (1)(a); and

(b) if applicable, on the department's use, during the prior fiscal year, of unexpended money reallocated under Subsection (1).

(3) Except in accordance with pay plans developed and adopted as described in Subsection 67-19-12(4)(a), the department may not allocate unexpended money under Subsection (1) for a priority program's personnel costs.

Section 3. Section **63J-1-206** is amended to read:

**63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.**

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly

156 exempted in the appropriating act:

157 (i) all money appropriated by the Legislature is appropriated upon the terms and  
158 conditions set forth in this chapter; and

159 (ii) any department, agency, or institution that accepts money appropriated by the  
160 Legislature does so subject to the requirements of this chapter.

161 (b) This section does not apply to:

162 (i) the Legislature and its committees; and

163 (ii) the Investigation Account of the Water Resources Construction Fund, which is  
164 governed by Section 73-10-8.

165 (2) (a) Each item of appropriation is to be expended subject to any schedule of  
166 programs and any restriction attached to the item of appropriation, as designated by the  
167 Legislature.

168 (b) Each schedule of programs or restriction attached to an appropriation item:

169 (i) is a restriction or limitation upon the expenditure of the respective appropriation  
170 made;

171 (ii) does not itself appropriate any money; and

172 (iii) is not itself an item of appropriation.

173 (c) (i) An appropriation or any surplus of any appropriation may not be diverted from  
174 any department, agency, institution, division, or line item to any other department, agency,  
175 institution, division, or line item.

176 (ii) If the money appropriated to an agency to pay lease payments under the program  
177 established in Section 63A-5b-703 exceeds the amount required for the agency's lease  
178 payments to the Division of Facilities Construction and Management, the agency may:

179 (A) transfer money from the lease payments line item to other line items within the  
180 agency; and

181 (B) retain and use the excess money for other purposes.

182 (iii) The executive director of the Department of Human Services may transfer  
183 unrestricted General Fund money appropriated to the department between line items within the  
184 department in accordance with Section 62A-1-111.6.

185 (d) The money appropriated subject to a schedule of programs or restriction may be  
186 used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program [~~within a line item~~], the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205;

(b) the Department of Administrative Services may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section 67-19-14.7 to another department, agency, institution, or division; and

(c) the Department of Administrative Services may transfer or divert money to another department, agency, institution, or division only for the purposes of coordinating and providing a state response to the coronavirus.